

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

AARON AUGUSTINE Plaintiff,	§ § § § § § §	CIVIL ACTION NO.
VS.		
THE LUBRIZOL CORPORATION		JURY TRIAL REQUESTED
Defendants.		

PLAINTIFF'S ORIGINAL COMPLAINT

1. Plaintiff, AARON AUGUSTINE, by and through his attorney, Black Law, PC, complaining of Defendant THE LUBRIZOL CORPORATION (Defendant) and for causes of action, Plaintiff would respectfully show this court the following:

I. JURISDICTION, VENUE AND PARTIES

2. This Court has jurisdiction over the lawsuit pursuant to 28 U.S.C. §1332(a)(1) because the Plaintiff and Defendant are citizens of different states, and the amount in controversy exceeds \$75,000, excluding interests and costs.

3. Venue is proper pursuant to 28 U.S.C. §1391(b)(1) because THE LUBRIZOL CORPORATION resides in this judicial district in Texas. Venue is proper pursuant 28 U.S.C. §1391(b)(2) because a substantial part of the acts and omissions occurred in this judicial district.

4. Plaintiff AARON AUGUSTINE, is a resident of Dickinson, Galveston County, Texas.

5. Defendant, THE LUBRIZOL CORPORATION is an Ohio corporation doing business in the State of Texas with its principal place of business in Ohio. Defendant may be served with citation by serving its registered agent to wit: CT Corporation System, 1999 Bryan St., Ste. 900, Dallas, Texas 75201-3136.

II. SUMMARY OF THE FACTS

6. On or about July 12, 2017, Aaron Augustine, an employee of Debusk Services Group, was performing maintenance on a chemical storage tank at THE LUBRIZOL CORPORATION Bayport chemical facility located at 12801 Bay Area Boulevard, Pasadena, Texas 77507.

7. On or about July 12, 2017, the chemical facility located at 12801 Bay Area Boulevard, Pasadena, Texas 77507 was owned, occupied, operated, controlled, and maintained by Defendant.

8. On or about July 12, 2017, Mr. Augustine was allowed by THE LUBRIZOL CORPORATION to enter into a chemical storage tank without the necessary personal protective equipment to protect himself from the harmful chemicals inside.

9. As a direct and proximate result of THE LUBRIZOL CORPORATION's failure to ensure Mr. Augustine was adequately protected, he suffered severe physical injuries and damages.

III. CAUSES OF ACTION

COUNT I-NEGLIGENCE

10. Plaintiff incorporates herein each allegation set forth above.

11. THE LUBRIZOL CORPORATION owed Mr. Augustine a duty of reasonable care. THE LUBRIZOL CORPORATION owed Mr. Augustine a duty to exercise ordinary care.

12. THE LUBRIZOL CORPORATION breached the duties owed to Mr. Augustine, failed to exercise ordinary care, and was negligent in at least the following ways:

- a. failing to ensure Mr. Augustine was wearing the necessary protective equipment to protect himself from the harmful chemicals inside the storage tank; and
- b. failing to warn Mr. Augustine of the hazards resulting from contact with the chemicals inside the storage tank.

13. Each and every one of the foregoing acts or omissions, taken singularly or in any combination, proximately caused Mr. Augustine's injuries and damages.

COUNT II-NEGLIGENCE-PREMISES LIABILITY TO AN INVITEE

14. Plaintiff incorporates herein each allegation set forth above.

15. THE LUBRIZOL CORPORATION is the owner of the premises located at 12801 Bay Area Boulevard, Pasadena, Texas 77507 where Plaintiff was injured at the time of the incident.

16. Plaintiff entered THE LUBRIZOL CORPORATION's premises at Defendants' invitation for their mutual benefit.

17. The chemicals in the storage tank posed an unreasonable risk of harm.

18. Defendant knew or reasonably should have known of the danger posed by the chemicals in the storage tank.

19. Defendant had a duty to use ordinary care to ensure that the premises did not present a danger to Plaintiff. This duty includes the duty to inspect and the duty to warn or to cure. Defendant breached the duty of ordinary care by failing to ensure Mr. Augustine was wearing the necessary protective equipment to protect himself from the harmful chemicals inside the storage tank and failing to warn Mr. Augustine of the hazards resulting from contact with the chemicals inside the storage tank.

20. Each and every one of the foregoing acts or omissions, taken singularly or in any combination, proximately caused Mr. Augustine's injuries and damages.

IV. DAMAGES

21. Plaintiff incorporates herein each allegation set forth above.

22. Mr. Augustine suffered, sustained, and incurred, and in reasonable medical probability will suffer, sustain, and incur, the following injuries and damages as a producing and proximate result of THE LUBRIZOL CORPORATION's conduct among others:

- a. physical pain, past and future;
- b. mental suffering, past and future;
- c. physical impairment, past and future;
- d. reasonable and necessary medical bills in the past and future;
- e. lost wages and loss of earning capacity;
- f. disfigurement; and
- g. costs of court.

V. JURY DEMAND

23. Plaintiff requests a Jury Trial.

VI. PRAYER

24. Mr. Augustine prays that THE LUBRIZOL CORPORATION be cited to appear herein, and that upon final trial, Plaintiff has judgment against THE LUBRIZOL CORPORATION for the following, among other things:

- a. compensatory damages in excess of \$75,000.00;
- b. pre-judgment interest according to Texas law;
- c. post-judgment interest according to Texas law;
- d. physical pain, past and future;
- e. mental suffering, past and future;
- f. physical impairment, past and future;
- g. reasonable and necessary medical bills in the past and future;

- i. lost wages and loss of earning capacity;
 - j. disfigurement; and
 - k. costs of court.
25. Such other and further relief to which Plaintiff shows himself justly entitled to receive.

Respectfully submitted,

BLACK LAW, PC

/s/J. Robert Black

J. Robert Black

Attorney-in-Charge

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